

Minutes of the December 10, 2010 Regular Council Meeting

Call to Order and Flag Salute at 3:30 pm by Mayor Serio.

Council in Attendance: Serio, Carmean, Bunting, Smallwood, Tingle, Langan and Weistling

Absent: None

President's Report

- Mayor Serio reported that the State of Delaware has enacted new regulations regarding the disposal of yard waste. Until the Town has had an opportunity to discuss pick up with its contracted trash hauler, Mrs. Serio suggested that property owners should either store the waste in a safe location or contact the trash hauler for a special pick up. There is a fee for the special pick up that is charged directly to the property owner.
- The Parks and Recreation Task Force will meet in mid-January/February to begin planning uses for the parkland on West Cannon Street.

Topics for Discussion and Possible Action

a. Resolution #49-2010 Arbor Day 2011 – Council Member Carmean

Council Member Carmean read into the record the text of Resolution #49-201 Arbor Day 2011 (copy attached to these minutes).

Motion to adopt Resolution #49-2010 – Council Member Tingle

Second - Council Member Langan

DISCUSSION

Council Member Carmean advised that this resolution is to be included in the Town's application for Re-certification as a Tree City USA. Mrs. Carmean noted that the Town had acquired "Tree City USA" signs and asked the status of their posting. Town Manager Abbott will look into the matter.

Vote: All in Favor (7-0)

Resolution #49-2010 passed

b. Resolution #50-2010 Budget Amendment – Ambulance Service Fee – Council Member Bunting

Council Member Bunting read into the record the text of Resolution #50-2010 Amending the Town Budget (copy attached to these minutes).

Motion to adopt Resolution #50-2010 – Council Member Smallwood

Second – Council Member Bunting

DISCUSSION

Council Member Bunting advised that the ambulance service will require an additional vehicle within the next year or two. The service has requested an increase of \$7 in order to plan for the purchase. Since the Town's budget and tax cycle does not run concurrent with the ambulance service budget, the Town is \$1 per subscriber behind the other three participants and will need to increase the fee this year by \$8 and \$1 each year until it reaches a \$10 cap. The ambulance service's intention is to retain the oldest vehicle as a backup. Mayor Serio advised that the four communities (Bethany Beach, South Bethany, Sea Colony and Fenwick Island) that participate in the service meet quarterly to review the service needs. This request is a result of a thorough review of finances and future needs. The primary objective in establishing the service was to create an affordable ambulance service. At that time, replacement vehicles were not a part of the discussion; however, it was agreed that a fund for this purpose would be set up when needed. Council Member Bunting noted that most ambulance service fees are approximately \$50 per annum and that the current service, even with the increase, will still be less than most. Council Member Carmean advised that she would not vote yes for this amendment; Mrs. Carmean wants to see a printed itemization of all the figures used to arrive at this figure. Mayor Serio advised that the figures are available and will make certain that Mrs. Carmean receives a copy.

Vote: (6-1) Council Member Carmean voting no

Resolution #50-2010 passed

c. Sidewalks – Mayor Serio

Mayor Serio reported that Council met on December 8, 2010 with Landmark Engineering regarding what the Town expects and their plan to complete the project. Landmark representatives did a visual inspection of the Town and

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compared their results with the previous plan/maps. Council will meet again with Landmark Engineering in January 2011 to review their suggestions and to express Town concerns.

Approval of Minutes:

Motion to Approve the Minutes of October 22, 2010 Meeting - Council Member Carmean

Second: Council Member Weistling

DISCUSSION

Council Member Weistling requested that the discussion of trash receptacles be amended as follows:

Council Member Weistling added that the ~~30-gallon (small)~~ **44-gallon** at \$1,000 was ordered.

Vote to approve minutes as amended: 6-0-1. Council Member Langan abstaining as he was not present at the meeting

Minutes Approved

Treasurer's Report:

Council Member Bunting noted that the financial report is included in the council meeting packet. Building Permit fees are down but Transfer Tax is up leaving the budget on track with the previous year.

Motion to Accept the Treasurer's Report - Council Member Langan

Second - Council Member Smallwood

DISCUSSION

Council Member Carmean requested an explanation of the Bonfire figures; Council Member Bunting advised that the figure is negative due to the refunding process. It appears to be a loss but, in actuality, is not.

Vote: All in favor (7-0)

Treasurer's Report accepted.

Town Manager Report:

- Town Manager Abbott advised that the Town has established a dedicated street fund
- CDs from the Realty Transfer Reserve Fund matured and have been moved to a different bank
- He has reviewed the Draft of Sussex County Emergency Management update

Department Reports:

- Building Official – Pat Schuchman noted that her report is included in the council packet. She added that she attended a FEMA Region 3 Class and learned of possible changes to their zoning. A preliminary analysis will be available in January 2012. Outreach meetings will be held in the coming year.
- Public Works: Mr. Abbott noted that the report is included in the council packet.
- Fenwick Island Police Department: Chief of Police Boyden noted that his department report in the Council packet.

Committee Reports:

- Beach Committee – Council Member Smallwood noted that the Fenwick Freeze is scheduled for January 1.
- Environmental Committee – Council Member Carmean advised that there was no meeting in November. The next meeting is scheduled for January 20, 2011.
- Public Safety Building – Council Member Langan advised that the Town is still in the process of collecting pricing options. It will most likely be a one-story building; Council Member Weistling added that the building will be designed to allow the addition of a second story if needed in the future. Council Member Langan noted that the building will most likely be able to use pilings and expects to receive plans for both stick-built and modular designs from which council can choose.

Planning Commission: Report is in the Council packet.

Charter & Ordinance:

- **Rescind Approved First Reading Chapter 140 – Streets and Sidewalks – Council Member Weistling**

Council Member Weistling advised that the Charter and Ordinance Committee requests that Council rescind the First Reading passed on October 22, 2010 in favor of a rewrite to be introduced today.

Motion to Rescind First Reading Chapter 140 – Streets and Sidewalks – Council Member Weistling

Second – Council Member Carmean

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DISCUSSION

Council Member Weistling advised that the Charter and Ordinance Committee felt that the ordinance should include a full listing of all streets in town instead of selected streets with east/west designations.

Vote: 7-0

Motion to Rescind First Reading Chapter 140- Street and Sidewalks –passed

- **Proposed First Reading Chapter 140 – Streets and Sidewalks – Council Member Weistling**

Council Member requested Council accept the first reading of Chapter 140 – Streets and Sidewalks (copy attached to these minutes).

Motion to accept the Proposed First Reading Chapter 140- Streets and Sidewalks – Council Member Weistling

Second – Council Member Langan

DISCUSSION

Council Member Weistling advised that this change includes all named streets within the Corporate Limits of The Town of Fenwick Island.

Vote: 7-0

First Reading Chapter 140 – Streets and Sidewalks passed

- **Proposed Second Reading of Chapter 135 Signs – Council Member Weistling**

Council Member Weistling advised that the proposed change deletes existing Chapter 135 section on Signs in its entirety and replaces it with the new section (included at the end of these minutes).

Motion to accept – Council Member Weistling

Second - Council Member Bunting

DISCUSSION

Council Member Weistling noted that this change adds a definitions section and gives the Code Enforcement Officer more authority to enforce the removal of dangerous signs. It clarifies signs on vehicles and addresses real estate and “blade” banners.

Vote: Smallwood – aye; Carmean – aye; Bunting – aye; Serio – aye; Weistling – aye; Tingle – aye; Langan - aye

Second Reading passed

- **Discussion on Proceeding with Developing a New Ordinance on Parks – Council Member Weistling**

Council Member Weistling advised that current zoning is Residential or Commercial. The Planning Commission, at Charter and Ordinance Committee request, developed a definition for “park.” The Charter and Ordinance Committee will introduce a change to add the definition and designate park areas on the Town map but will not do so until the Parks and Recreation Task Force meets. C&O is seeking Council guidance on how to proceed.

DISCUSSION

Mayor Serio advised that, for grant purposed, the Town should designate park land in its Zoning Ordinance. Council Member Weistling noted that the Task Force may want to set up guidelines (hours of operation, parking, etc) and Council Member Carmean added that there are currently a set of informal regulations but wants them written down. Mayor Serio would like smoking addressed as well. Council Members Tingle and Langan agreed that the C&O should wait until the Task Force meets to discuss this further.

Old Business:

Mayor Serio advised that the Town has received a legal opinion from the Town Solicitor regarding police extra duty and outside employment. The opinion will be reviewed by Council Members Carmean and Smallwood and Chief of Police Boyden.

New Business – No Action to be Taken:

None

Public Participation:

- Buzz Henifin (48 Windward Way) – asked if council could provide a definition for yard waste and that previous instructions indicated that it should be placed in special bags provided for a fee from the Delaware Solid Waste Authority. Mayor Serio advised that the Town has not received guidance from the trash hauler.

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- Buzz Henifin – continued that he estimates the ambulance increase to property owners is 33%. He asked if Council could advise if further increases can be expected in the future. Mayor Serio advised that the Town's tax year occurs mid-contract and will show the increase.
- Buzz Henifin – continued by asking if the forms for the Bethany Beach Volunteer Fire Company Christmas tree bulbs can purchased at the event. Mayor Serio advised that they can.
- Chuck Welch (3 W Bayard St) – asked the cost of the original two-story design for the proposed Public Safety Building. Council Member Weistling advised that there is no costing for the project at this time; however, the Town has learned that a two-story building will require a sprinkler system that will increase the overall cost of the project. Mr. Welch requested the cost of the project to date; Council Member Weistling advised that the Town has spent \$7900 and the balance of the payment to the architectural/engineering firm is based on a percentage of the cost of the project.
- Chuck Welch – continued that he wants the town to consider a modular home from Beracah Homes and have the town complete the project in-house. A commercial building is more costly than a residential building and the Town should change its plans to use a modular home. Mayor Serio noted that the Town Solicitor advised that this project not be handled in-house and that the Town did not receive a bid from Beracah at the time the original bids were let out; anyone can bid on the next phase of the project. Council Member Weistling advised that, should the cost of the project come in lower than anticipated, the Town may consider a two-story structure. Council Member Langan added that an elevator and sprinkler system must be included in the plans for a two-story building and that will increase the cost.
- Mike Quinn (5 W Houston St) – asked if the ambulance service can provide a firm number of the total vehicles it will need and the justification for acquiring another vehicle now. Council Member Bunting advised that they require three vehicles. Mayor Serio noted that the lack of adequate vehicles has caused the service to pay other groups to do the runs that it was not able to do. Council Member Bunting advised that a third vehicle will cover the service while the other two vehicles are out. The Millville Ambulance Service maintains five vehicles and that this area may not need that many. Council Member Carmean requested an accounting of service provided. Mayor Serio expressed confidence in the ambulance service.
- Buzz Henifin (48 Windward Way) – asked about the expected life span of an ambulance; Mayor Serio advised that the expected life of a vehicle is seven years. Council Member Bunting added that the service will establish a "sinking" fund to allow for contingencies. Mayor Serio noted that this is similar to that fund set up by the Town to cover the replacement of Fenwick Island Police Department vehicles.
- Mike Quinn (5 W Houston St) – asked if current personnel will be adequate or if the ambulance service will need further staffing. Council Member Bunting advised that current staffing will be used. There will be a paramedic and a supervisor on the third vehicle and volunteer drivers are being trained. Mr. Quinn noted that he has seen more that one vehicle respond to emergency situations. Mayor Serio advised that one vehicle belongs to the State of Delaware Fire Marshall and is required at accidents. Council Member Bunting advised that the fire company often sends a vehicle to provide "muscle." Council Member Weistling advised that he had similar questions and believes that the service should proceed to add a third vehicle as a replacement for the older vehicle.

Upcoming Events and Meetings:

Mayor Serio announced all meetings and events.

Motion to Adjourn: Council Member Carmean

Second: Council Member Langan

All in favor to adjourn (7-0)

Mayor Serio adjourned the meeting at 4:30PM.

Respectfully submitted,

Agnes DiPietrantonio, Town Clerk

For Diane Tingle, Secretary

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NOTICE

On **December 10, 2010** The Fenwick Island Town Council
Passed the Following Resolution #49-2010
Arbor Day 2011

Whereas, J. Sterling Mortin established the first Arbor Day on April 10, 1872 in his home state of Nebraska to urge Americans to stop misusing their natural resources and begin to practice conservation by planting trees; and

Whereas, the holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska, and

Whereas, Arbor Day is now observed throughout the nation and the world, and

Whereas, trees can reduce the erosion of our precious topsoil by wind and water, lower our heating and cooling costs, moderate the temperatures, clean the air, produce oxygen and provide habitat for wildlife, and

Whereas, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products, and

Whereas, trees, wherever they are planted, are a source of joy and spiritual renewal,

Whereas, the Town Council, of the Town of Fenwick Island, desires to urge all citizens to plant and care for trees to gladden the heart and promote the well-being of this and future generations.

Therefore, the Town Council, of the Town of Fenwick Island, on behalf of the citizens and property owners of the Town of Fenwick Island, in order to accomplish this goal, do hereby establish for this purpose, and do hereby proclaim **April 29, 2011** as Arbor Day in the Town of Fenwick Island, and urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands.

Attest: _____
Agnes D. DiPietrantonio, Town Clerk

Audrey Serio, President of Council

Diane B. Tingle, Council Secretary

I, Diane B. Tingle, Secretary of the Town Council, of the Town of Fenwick Island, Delaware, do hereby certify that the foregoing is a true and correct copy of the Resolution passed by the President and Council at a meeting on December 10, 2010 at which a quorum was present and voting throughout and the same is still in force and effect.

Date

Diane B. Tingle, Council Secretary

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NOTICE

On **December 10, 2010** The Fenwick Island Town Council
Passed the Following Resolution #50-2010
Budget Amendment – Ambulance Service Fee

Whereas the Town of Fenwick Island has entered into an agreement to provide its citizens with ambulance service through the Bethany Beach Volunteer Fire Company; and

Whereas the ability of this entity to serve our citizens is dependent upon the timely replacement of capital equipment; and

Whereas the principal partners, including the Town of Fenwick Island, have agreed to fund a Long Term Capital Fund for this purpose,

Whereas the Town of Fenwick Island Town Council does resolve to support this fund in accordance with the recommendation of the Board of Directors of the Ambulance Service Sponsors.

Therefore, may the 2010-11 Town of Fenwick Island Operating Account Budget be amended to reflect the change in premium rates for this service. The amended budget is attached.

Attest: _____
Agnes D. DiPietrantonio, Town Clerk

Audrey Serio, President of Council

Diane B. Tingle, Council Secretary

I, Diane B. Tingle, Secretary of the Town Council, of the Town of Fenwick Island, Delaware, do hereby certify that the foregoing is a true and correct copy of the Resolution passed by the President and Council at a meeting on December 10, 2010 at which a quorum was present and voting throughout and the same is still in force and effect.

Date

Diane B. Tingle, Council Secretary

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TOWN OF FENWICK ISLAND PROPOSED BUDGET FISCAL YEAR AUG. 1, 2010 - JULY 31, 2011 (DEC. 2010 REVISION)

	2011 Proposed	2010 Budget
43000 · Taxes		
41020 · Property Taxes	625,000	625,000
42010 · Rental Receipt tax	260,000	275,000
42020 · Prior Year Rev in Excess of Exp	4,860	
43000 · Taxes - Other		
Total 43000 · Taxes	889,860	900,000
44550 · Charges for Services - Admin		
43010 · License Fees - OC	45,000	35,000
43020 · License Fees - RU	23,000	22,500
43030 · License Fees - RM	25,000	25,000
44010 · Garbage Collection Fees	200,900	178,160
44020 · Comcast Cable Fees	17,500	28,000
44030 · Ambulance Service Fee	27,120	27,120
45100 · Building Permit Fees	100,000	75,000
Total 44550 · Charges for Services - Admin	438,520	390,780
44800 · Fines & Forfeitures		
46100 · Penalties	2,500	3,000
46200 · Traffic Fines	35,000	35,000
46300 · Parking Violation Fees	18,000	20,000
Total 44800 · Fines & Forfeitures	55,500	58,000
45000 · Investments		
45030 · Interest-Investments		
47100 · Interest Income	8,000	9,000
45000 · Investments - Other		
46430 · Revenue - Admin		
46320 · Contractor Decals	300	0
46330 · Bonfire Permits	3,000	2,500
47120 · Town Hall Rental Fee	1,000	2,000
47160 · Photo/Audio Copy Fee	20	100
47200 · Parking Permits	17,000	25,000
47275 · Public Hearing Fee	275	0
		5,000
47800 · Sale of Equipment		0
48100 · Insurance Reimbursements	6,000	5,000
48200 · Income restrict purpose	0	0
46430 · Total Admin - Other	27,595	39600
46440 · Other Types of Revenue - Police		
47160 · Police Accident Report Fee	250	200

TOWN OF FENWICK ISLAND PROPOSED BUDGET FISCAL YEAR AUG. 1, 2010 - JULY 31, 2011 (DEC. 2010 REVISION)

47161 · Salary OT Reimbursement	5,000	7,000
Total 46440 · Other Types of Revenue - Police	5,250	
47000 · Intergovernmental Rev Lifeguard		
47280 · State Beach Lifeguard Revenue	40,000	47,000
47290 · Lifeguard - County Grant	10,000	0
Total 47000 · Intergovernmental Rev Lifeguard	50,000	
47050 · Intergovernmental Rev Police		
47285 · County Police Grant	20,000	12,500
42795 · State Police Grant		
47900 · DEMA Homeland Security Grant	0	0
Total 47050 · Intergovernmental Rev Police	20,000	12,500
48150 · Junior Lifeguard	5,000	2,500
Total Income	1,499,725	1,466,580
61100 · POLICE DEPARTMENT		
61110 · Police Salaries	285,000	275,000
61140 · Police Life Insurance	1,400	1,400
61150 · Police Health Insurance	54,832	50,982
61160 · Police Payroll Taxes	25,690	24,700
61170 · Police Pension Expense	12,000	14,000
61180 · Police Workers Compensation	23,600	23,600
61210 · Police Supplies	1500	3,000
61220 · Police Office Supplies	3000	5,000
61310 · Police Office Equip Maintenance	1000	1,000
61320 · Police Printing & Advertising	1500	2,000
61330 · Police Uniforms	4000	4,000
61335 · Police Computers	4000	5,000
61340 · Police 61171 · Police - State Pension Payn	5000	4,000
61345 · Police 61170 · Police Pension Expense - C	13000	15,000
61380 · Police Training	3000	3,000
		0
Total 61100 · POLICE DEPARTMENT	438,522	431,682
Total Lifeguard Salaries	184,176	160,250
61530 LG Payroll Taxes	14,000	11,000
61540 · Lifeguard Workmans Comp	9,250	8,500
61610 · Lifeguard Supplies & Equipment	3,500	3,000
61620 · Lifeguard Uniforms	6000	4,000
61630 · Lifeguard Junior Guards	500	400

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TOWN OF FENWICK ISLAND PROPOSED BUDGET FISCAL YEAR AUG. 1, 2010 - JULY 31, 2011 (DEC. 2010 REVISION)

61640 · Lifegu 61615 · Lifeguard Salaries - State	700	500
61665 · Lifegu 61635 · Lifeguard Payroll Taxes Sta	500	500
61670 · LG US 61630 · Lifeguard Payroll Taxes - O	600	900
61675 · LG Gasoline	200	200
61680 · LG Physicals	700	
61710 · LG Other expenses	500	500
61735 · Lifeguard Supp & Equip - S	220,626	189,750
61745 · Lifeguard Equipment - State		
61800 · PUBLIC WORKS DEPARTMENT		
61810 · Public Works Salaries	124,677	150,000
61830 · Public Works Life Insurance	950	800
61840 · Public Works Health Insurance	19,550	32,822
61850 · Public Works Payroll Taxes	10,000	15,750
61870 · Public Works Pension Expense	12,000	13,900
61880 · Public Works Workmans Comp Ins	8,200	12,185
61905 · Public Works Training	1,000	1,500
61910 · Public Works Office Supplies	150	250
61920 · Public Works Shop Supplies	1,500	1,500
61930 · Public Works Shop Equipment	2,500	2,500
61940 · Public Works Safety Equipment	500	500
62010 · Public Works Printing & Advert	200	200
62015 · Public Works Utilities	4,500	5,000
62020 · Public Works Bldg Maintenance	500	600
62025 · Public Works Uniforms	600	500
62030 · Public Works Gas & Oil	3,500	4,000
62035 · Public Works Repairs & Malnten	2,000	2,000
62075 · Public Works CDL Testing	700	500
62100 · Public Works Contract Services	150	0
Total 61800 · PUBLIC WORKS DEPARTMENT	193,177	244,507
62200 · ADMINISTRATION		
62210 · Admin Salaries	163,000	157,500
62220 · Admin Life Insurance	600	600
62230 · Admin Health Insurance	38,600	45,344
62240 · Admin Payroll Taxes	12,400	15,900
62250 · Admin Pension Expense	13,260	8,500
62255 · Admin Workers Comp	1,050	12,700
62260 · Admin Financial Services	6,000	2,500
62310 · Admin Office Equip Maintenance	5,700	6,000
62320 · Admin Office Supplies	5,000	5,000
62330 · Admin Travel Reimbursement	750	1,500
62332 · Admin Vehicle Acquisition	4,800	3,225
62334 · Admin Vehicle Fuel/Maint	1,500	2,000

TOWN OF FENWICK ISLAND PROPOSED BUDGET FISCAL YEAR AUG. 1, 2010 - JULY 31, 2011 (DEC. 2010 REVISION)

62340 · Admin Printing & Advertising	100	100
62350 · Admin Training	5,000	3,500
		0
Total 62200 · ADMINISTRATION	257,760	264,369
63200 · GENERAL GOVERNMENT		
63205 · Gen Gov Insurance	61,000	60,000
63210 · Gen Gov Telephone	8,500	7,500
63220 · Gen Gov Website	1000	2,500
63225 · Gen Gov Legal	14,000	18,000
63230 · Gen Gov Audit	8,700	8,500
63235 · Gen Gov Postage	2,000	3,000
63240 · Gen Gov Printing & Advertising	1,700	1,500
63245 · Gen Gov Utilities	13,000	14,000
63250 · Gen Gov Appraisal	5,500	5,500
63255 · Gen Gov Emergency Mgmt	500	500
63260 · Gen Gov Sewer	500	500
63265 · Gen Gov Dues	750	500
63270 · Gen Gov Service Grants	0	3,000
63271 · Gen Gov Recycling		0
63272 · Gen Gov Building Maintenance	5,000	6,000
63273 · Gen Gov Cell Phones	2,500	5,000
63274 · Gen Gov Contract Services	4,000	3,800
63275 · Gen Gov County Fee Tax Billing	700	800
63280 · Gen Gov Contingencies	5,000	5,000
63281 · Gen Gov Employee Relations	3,200	3,000
63285 · Gen Gov Codification	5,000	5,000
63290 · Gen Gov Pension Administration	3,600	1,500
63300 · Gen Gov Government Liaison	2,500	2,000
63305 · Gen Gov Supplies Median Maint	13,500	0
63310 · Gen Gov Community Projects	1,500	1,000
63320 · Gen Gov Community Outreach	1,000	1,000
63325 · Gen Govt Ambulance Service	31,980	27,120
63330 · Gen Govt Trash Collection	191,310	167,552
62370 · Parking Permits	1,700	2,500
Total - 63200 General Government	389,640	356,272
All Income	1,499,725	
All Expenses	1,499,725	

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APPROVED First Reading – October 22, 2010

Proposed Second Reading – December 10, 2010

RESCINDED – December 10, 2010

(Existing – Replace in Entirety)

Chapter 140, STREETS AND SIDEWALKS

GENERAL REFERENCES

ARTICLE I, Street Names

§ 140-1. Street names and signs.

A. In order to facilitate the prompt location of specific addresses by emergency vehicles, the names of Town streets intersecting with Coastal Highway may include an east or west designation where applicable as follows:

Streets Running Easterly
from Coastal Highway

East Atlantic Street
East Bayard Street
East Cannon Street
East Dagsboro Street
East Essex Street
East Farmington Street
East Georgetown Street
East Houston Street
East Indian Street
East James Street
Lewes Street
King Street

Streets Running Westerly
from Coastal Highway

West Delaware Avenue
West Maryland Avenue
Oyster Bay Drive
West South Carolina Street
West Atlantic Street
West Bayard Street
West Cannon Street
West Dagsboro Street
West Essex Street
West Farmington Street
West Georgetown Street
West Houston Street
West Indian Street
West James Street
High Tide Lane
Windward Way
Ebb Tide Cove

B. Signage for these streets shall use the abbreviations "E." and "W.", where applicable.

POSTED: October 25, 2010

Approved First Reading – December 10, 2010

(Existing – Replace in Entirety)

Chapter 140, STREETS AND SIDEWALKS

GENERAL REFERENCES

ARTICLE I, Street Names

§ 140-1. Street names and signs.

A. In order to facilitate the prompt location of specific addresses by emergency vehicles, the names of Town streets are as follows:

Streets Located Easterly
from Coastal Highway

East Atlantic Street
East Bayard Street
East Cannon Street
East Dagsboro Street
East Essex Street
East Farmington Street
East Georgetown Street
East Houston Street
East Indian Street
East James Street
East Lewes Street
East King Street

Streets Located Westerly
from Coastal Highway

West Delaware Avenue
West Maryland Avenue
Oyster Bay Drive
West South Carolina Street
West Atlantic Street
West Bayard Street
West Bayard Street Extended
West Cannon Street
West Dagsboro Street
West Essex Street
West Farmington Street
West Georgetown Street
West Houston Street
West Indian Street
West James Street
High Tide Lane
Windward Way
Ebb Tide Cove
Schulz Road
Bay Street
Bora Bora Street
Mermaid Street
Glenn Avenue
Island Street

B. Signage for these streets shall use the abbreviations "E." and "W.", where applicable.

Minutes of the December 10, 2010 Regular Council Meeting

APPROVED First Reading – October 22, 2010

Proposed Second Reading – December 10, 2010

APPROVED SECOND READING – DECEMBER 10, 2010

(EXISTING – Change in Entirety)

CHAPTER 135 - SIGNS

§ 135-1. Intent.

This chapter is intended to promote the health, safety and general welfare of the residents of, visitors to, and owners and occupants of land and buildings within the Town; to restrict and eliminate signs tending to depreciate the value of property; and to eliminate actual or potential hazards to pedestrians and motor vehicle operators within the Town.

135-2. Definitions

The following terms, wherever used herein, shall have the respective meanings assigned to them unless a different meaning clearly appears from the context:

Blade Banner - A flag, pennant or similar instrument intended to be hung on a pole no higher than 17 feet nor wider than 3 feet, possessing characters, letters, illustrations or ornamentations applied to paper, plastic, or fabric of any kind.

Building Official - In the absence of said official, shall be synonymous with the Town Manager or any other person designated to perform the duties of Building Official.

Erect - To build, construct, attach, hang, place, suspend or affix.

Flag - A piece of cloth, plastic or fabric of any kind of distinctive size, color and design used as a symbol, standard, signal, decoration, advertisement, or emblem.

Portable sign - Any permanent or temporary sign, whose design and/or construction is intended to be moveable.

Sign - Includes every sign and any announcement, declaration, display, illustration or insignia used to advertise or promote the interests of any person, artificial entity, business, or group when the same is placed out-of-doors in view of the general public.

Vehicle sign - A sign or advertising device, but not a bumper sticker, which is painted, mounted, affixed or otherwise attached to a vehicle or trailer, which is used for the purpose of providing advertisement of products and services or directing people to a business, service or other activity.

§ 135-3. General provisions, restrictions and prohibitions.

Except as otherwise specifically provided in this chapter, the following provisions apply in all zones:

A. The area of a sign shall include the entire face of the sign, including the border and trim, and shall include the space between letters, figures and designs. All sides of a sign which are visible from any one vantage point shall be measured in determining the area of a sign, except that only one side of a sign shall be measured if the two sides are back-to-back or separated by an angle of 45° or less. In the latter case, if the two sides are not equal size, the larger side shall be measured. All signs must be built to withstand 35 pounds of wind pressure per square foot and a wind velocity of 110 mph.

B. The Building Official may cause any sign or advertising structure which is an immediate peril to persons or property to be removed summarily and without notice.

C. Portable and movable signs; A-shape signs.

(1) Portable or movable signs which are not firmly attached to a structure are prohibited, excepting that permanently located freestanding signs and those signs as set forth in § 135-3 C (2) are exempt from the above prohibition.

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(2) After September 15 and before June 1, in lieu of (and not in addition to) the flags permitted in ~~§§ 135-5A(3)(b) and 135-5C(4)(b)~~, A-shape signs with maximum dimensions of 3 feet high and 2 feet wide or a flag indicating either "open" or a product or nationality having dimensions of not greater than four feet by six feet shall be permitted, to be located not closer than 10 feet to either the front or side property line, one per business establishment, to be removed at sundown and not replaced until 7:00 a.m. A-shape signs shall be removed in high winds where they could create a hazard.

D. No sign shall be permitted which by reason of its shape, color or working may be confused with an official traffic sign, signal or device, or which may mislead or confuse pedestrians or vehicle operators, or obscure from view any traffic or street sign or signal or which may obstruct the view in any direction at the intersection of a street with another street or with a driveway.

E. Two signs per vehicle, not to exceed 12 square feet total, are permitted.

F. A sign in the shape or form of any person, animal, vegetable, product or portion of any of the foregoing is prohibited, except with the approval of the Town Council.

G. A sign which advertises a building, product, business, service, event, or institution which is not located on the same lot as the sign is prohibited.

H. A sign that flashes, blinks, or has intermittent or varying intensity of illumination is prohibited whether deliberate or as a consequence of a defect in the sign or the illumination source, if visible from the travel portion of the highway, except for a sign indicating the time or date or temperature changes, or a combination.

I. The light from any light source intended to illuminate a sign shall be so shaded, shielded or directed that the light intensity or brightness shall not adversely affect surrounding or facing premises, nor adversely affect safe vision of pedestrians or operators of vehicles moving on public or private streets, driveways or parking areas.

J. No sign shall obstruct any door, fire escape, stairway or any opening intended to provide ingress or egress to or from any building or structure.

K. No sign which is not attached to a building shall exceed 20 feet in height above the finished grade below it.

L. The lowest point of any sign which extends over an area intended for pedestrian use shall not be less than 8 feet above the finished grade below it. The lowest point of any sign which extends over an area intended for vehicular use shall be not less than 14 feet above the finished grade below it.

M. Signs larger than 30 square feet in area shall be set back a minimum of 25 feet from the Route 1 state right-of-way line or property line on other streets or roads. Signs of 30 square feet and under shall set back a minimum of 10 feet from the Route 1 state right-of-way line or property line on other streets or roads except as otherwise specifically provided in this chapter.

N. In the case of signs placed in the interior of a building and observable from the outside through a frontage window;

(1) Unlighted signs, meaning signs without electrification, are permitted.

(2) Unless the sign is allowed under ~~§ 135-4A~~ or B, lighted open signs and informational signs showing services rendered or products sold shall not exceed the lesser of 20% of the total area of the window or door in which they are placed or 12 square feet.

O. Unless the sign is specifically permitted under this chapter, in the Commercial Zone it shall be unlawful for any person or entity to cause or permit the repair, erection, alteration, relocation or conversion of, or to permit to exist, any sign within the Town. This prohibition shall apply to both the owner of the land or buildings and any lessee (tenant) or other occupant.

P. Handicap parking signs. Any handicap parking spaces or zones designated by any person or artificial entity for use by persons with disabilities shall have erect signage.

§ 135-4. Signs permitted in all zones.

Subject to the other conditions of this chapter, the following signs shall be permitted in any zone:

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A. Construction signs. One sign shall be permitted for all building contractors, one for all professional firms and one for all lending institutions involved in the construction, enlargement, reconstruction or repair of a structure. Each such sign shall not exceed six square feet in area, with not more than a total of 3 such signs permitted on one site. If freestanding, the height of each such sign shall not exceed 8 feet. Signs shall be set back a minimum of 5 feet from the Route 1 state right-of-way line and a minimum of 5 feet from the property line on all other streets or roads. Each such sign shall be removed within 14 days of the end of the intended use of the project.

B. Real estate signs. One temporary real estate sign not exceeding 6 square feet in area and located on the property to which it relates shall be allowed for each lot. Signs shall be set back a minimum of 5 feet from the Route 1 state right-of-way line and a minimum of 5 feet from the property line on all other streets or roads. Any such sign shall be removed within 7 days of settlement of the property.

C. Banners. Banners advertising a public entertainment or event, if specifically approved by the Town Council and in locations designated by the Town Council, may be displayed 14 days prior to and during and 7 days after the public entertainment or event, or as otherwise approved by the Town Council.

D. Permanent identification signs. Signs of a permanent nature, setting forth the name of a church, community center or other like projects, shall be permitted if erected in accordance with the minimum yard requirements of the zone in which the sign is located. Setback requirements shall be in accordance with § 135-3M of this chapter. Any such signs shall not exceed 30 square feet in area. Such signs shall be deemed to include community bulletin boards.

E. Civic, religious and quasi-public signs. Name, directional and information signs and emblems of service clubs, places of worship, civic organizations and quasi-public uses shall be permitted on private property if set back in accordance with the minimum sign setback requirements of the zone in which the sign is located. Each such sign shall not exceed 3 square feet in area. If freestanding, the height of such sign shall not exceed 8 feet. In the event that there is a need for more than one sign at one location, all such signs must be consolidated and confined within a single frame.

F. Public signs. Signs of noncommercial nature and in the public interest, such as directional signs, regulatory signs, warning signs and information signs, may be erected by or on the order of a duly appointed federal, state, county or Town public officer in the performance of his duty.

G. Temporary signs. Temporary signs announcing any public, charitable, civic, educational or religious event or function may be located on the lot on which the event or function is to take place and set back no less than 10 feet from the property line nor exceed 30 square feet in area. Such a sign shall be erected no more than 10 days prior to the event or function and must be removed within 5 days after the event or function. If freestanding, the height of such sign shall not exceed 8 feet.

H. Election campaign signs. Signs relating to primary or general elections, including referenda questions, shall be permitted up to a total area of 9 square feet for each lot in a Residential Zone and 30 square feet in a Commercial Zone. These signs shall be confined within private property and shall not be less than 25 feet from the nearest curb intersection of any street or road. Sign setback requirements shall be in accordance with § 135-3M of this chapter. If freestanding, the height of such signs shall not exceed 8 feet. Such a sign may be displayed no sooner than 30 days before an election and must be removed within 2 days after the election to which it relates.

§ 135-5. Commercial and industrial signs

The following shall apply in Commercial Zones:

A. For a single commercial business, which is not a part of a subdivided building, the following shall apply (all signs described herein shall be subject to the restrictions provided in § 135-4):

(1) With property less than 100 feet of frontage on Route 1, 2 signs, or 2 blade banners, or one of each are permitted. One sign, attached to the building and not exceeding one square foot for each front foot of building, is permitted. A freestanding sign or blade banner is also permitted, but shall not exceed 30 square feet, and shall not reduce the number of required parking spaces.

(2) With property of 100 feet of frontage or more on Route 1, there shall be allowed one blade banner or one freestanding sign no larger than 120 square feet and one sign attached to the building not to exceed one square foot in area for each front foot of building.

(3) One United States flag and one State of Delaware flag, and one flag indicating either "open", a product, or a nationality, with each flag having dimensions not in excess of 4 feet by 6 feet are permitted if on a pole(s) attached to the front of the building or on a flag pole set back at least 25 feet from the front property line and 10 feet from any side property line; anything contained in this chapter notwithstanding, a flag may protrude no more than 6 feet from the wall to which it is attached and, if attached to a building, may not be higher than the roof of the building.

B. In the case of a subdivided building, the total number of signs shall not exceed 3 signs for each single commercial occupant, the total square footage of all such signs shall not exceed one square foot in area for each lineal front foot of building used for a single commercial purpose. Each allowed sign must be on or attached to the building.

C. In addition to the sign allowed in Subsection B above, the following signs shall be permitted:

(1) One multiple-use identification sign, stating the name of the subdivided building and some or all of its tenants. The area of such sign shall be determined independently from the sign area allowed under Subsection A of this section and shall not exceed 30 square feet per tenant or exceed 250 square feet per subdivided building.

(2) One additional sign shall be permitted below a canopy or overhang, not to exceed 2 square feet in size.

(3) In the case of gasoline service provided by a retail store, one additional conventional freestanding gasoline sign.

(4) Subdivided buildings; protrusion.

(a) For an entire subdivided building, one United States flag and one State of Delaware flag are permitted on a pole(s) attached to the front of a building or on a flagpole set back at least 25 feet from the front property line and 10 feet from any side property line.

(b) For a subdivided building, each holder of a business license is permitted to have one flag indicating either "open" or a product or a nationality, with dimensions not in excess of 4 feet by 6 feet, if on a pole attached to the front of the business (building). Blade banners are prohibited.

(c) Anything contained in this chapter notwithstanding, if attached to a building, a flag(s) may protrude no more than 6 feet from the wall to which it is attached and may not be higher than the roof of the building.

D. No sign on or attached to a building shall extend beyond that portion of the building which it identifies, nor shall it extend above the height of the wall of the building on which it is placed, nor shall it extend beyond the width of the wall of the building on which it is placed, nor shall it protrude more than 6 inches from the wall of the building on which it is placed, except that the sign permitted under Subsection C(2) above may extend out to the limit of an overhang or canopy.

E. In the case where the size of the building is disproportionately small compared to the size of the facility as a whole, a sign not to exceed 25 square feet shall be permitted on the building, to be placed in accordance with the provisions of this chapter, and one freestanding sign shall be permitted no greater than 30 square feet and shall be set back a minimum of 10 feet from the Route 1 right-of-way line or property line or other streets or roads, except as otherwise specifically provided in this chapter, and shall be subject to the restrictions as set forth in § 135-2.

F. In the case of a full-service auto repair garage-gasoline station having an overhead canopy covering at least 2 rows of gasoline pumps, the following shall be permitted:

(1) One freestanding sign consisting of multiple signs not to exceed 4 square feet for each multiple sign advertising current gasoline prices, subject to height, size and setback requirements set out above.

(2) Lettering and logo showing the company, not exceeding letter heights of 2 ½ feet, lettering length of 16 feet and logo height of 33 inches, on either side of the canopy.

(3) A sign not exceeding 16 square feet on the building indicating the service center.

(4) Advertisement of oil and gas on each pump, said advertisement not to exceed 3 square feet on each pump, is permitted.

§ 135-6. Nonconforming signs

A. Any permanent sign lawfully in existence on the effective date of this chapter shall be allowed to remain; however, if an existing sign is destroyed or falls into disrepair, then reconstruction of said sign of the same size and in the same location shall be permitted if rebuilt within one year of said destruction or disrepair. In the event such a sign is not rebuilt and replaced within the one-year time limit, then any reconstruction must be in accordance with this chapter. The condition of the sign in question shall be determined and approved by the Building Official at the time the sign permit application is filed as set forth in § 135-7 herein. The condition of such sign may also be evaluated at the time it is destroyed or falls into disrepair. All applications for a permit to replace a nonconforming sign shall not be considered as a reconstruction of a nonconforming sign and, therefore, the replacement sign must be in accordance with this chapter.

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B. Portable or movable signs that are in violation of § 135-3C shall be removed not later than 30 days after the effective date of this chapter.

§ 135-7. Permits.

A. No sign shall be erected or moved or altered as to size, shape, design or context without first filing an application and obtaining a signed permit of approval by the Building Official, except as provided in § 135-8 of this chapter. Where space on the sign is provided to indicate sales or specials, the written and/or graphic content in this area may be changed without prior approval.

B. The exact location, size, type of illumination, structural content, support system, color and design must be clearly and fully set forth in Section II of the Sign Permit Application except as provided in § 135-8 of this chapter.

C. A fee as set by resolution by the Town Council from time to time must accompany each sign permit application for a multiple use identification sign as set forth in § 135-5C(1) of this chapter, and for each sign described in § 135-4A or B of this chapter. All other sign permits will be charged a fee as set by resolution of the Town Council from time to time, except as provided in § 135-8 of this chapter.

D. All requests for a permit hereunder must be signed by the owner of the property and/or business owner of that property where the sign is to be located.

E. An application for a sign permit may be obtained from the Town Manager or Building Official's office.

§ 135-8. Exceptions; sign application; permit and fee.

A. Signs which are permitted in accordance with § 135-4A, B and F of this chapter shall not require the submission of an application or a permit or a fee to be paid, provided that they shall be in accordance with all other requirements of this chapter.

B. Signs which are permitted in accordance with § 135-4C of this chapter shall require the submission of an application which must be approved by Town Council. No fee will be required.

C. Signs which are permitted in accordance with § 135-4D and E of this chapter shall require the submission of a sign application and a sign permit. No fee will be required.

D. Signs which are permitted in accordance with § 135-4G and H of this chapter shall not require the submission of an application or a permit, and no fee is required, provided that they shall be in accordance with all other requirements of this chapter, and further provided that the Building Official be advised prior to erection as to location, size and content.

E. Signs which are required in accordance with § 135-3P of this chapter shall not require the submission of an application or a permit, and no fee is required, provided that they shall be in accordance with Title 9, Section 310, of the Delaware Code.

§ 135-9. Maintenance of signs.

If the Building Official shall find that any sign or other advertising structure regulated herein is unsafe or insecure or is a menace to the public or has been constructed or erected or is being maintained in violation of the provisions of this chapter, he/she shall give written notice to the permittee. If the permittee fails to remove or alter the structure so as to comply with the standards herein set forth within 10 days after such notice, such sign or other advertising structure may be removed or be made to comply by order of the Building Official at the expense of the permittee or owner of the property upon which it is located. The Building Official shall refuse to issue a permit to any permittee or owner who refuses to pay costs so assessed.

§ 135-10. Penalties.

Violators of any provision of this chapter shall, upon conviction, be subject to a fine of \$200. Each day that the violation continues to exist after written notification by the Town of the violation and the expiration of the time for compliance of at least 10 days set forth in the notice shall be a separate offense, subject to the same penalty for each day the violation continues.

§ 135-11. Appeals.

Appeals to the interpretation of this chapter will be made to the Town Council. The decision of the Town Council shall be final.